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August 10, 2007

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Ravalli County Commissioners
215 South Fourth, Suite A
Hamilton, MT 59840-2853

Ravalli County Commissioners

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Dear Commissioners:

I am submitting this letter to you at the request of Fred Hansen, MACo Loss Control Specialist, in relation to issues that were raised this week at a Commission meeting.

I understand the Commission is interested in MACo's opinion as to whether there is any conflict of interest in regard to Fred Thomas as insurance agent for the County, and also as one of the plaintiffs in the case brought against Ravalli County, Cause No. DV-06-5771. The issues in the case related to the recent change in the County Commission and the effect of the change. The plaintiffs in the case were partially successful and are claiming attorney fees against the County.

The conflict issue relates to a legal issue, and since the County Attorney's office is the legal advisor for the County, the issue should be addressed with his office. The advice of the County Attorney would certainly take precedence over any opinion that MACo may have regarding the issue. Thus, I can only speak for MACo in an advisory capacity and not as any official opinion for the Commission.

Conflicts of interest issues involving local government generally relate to county officials. For instance, under §2-2-105, Montana Code Annotated, a public officer or employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action taken by the officer or employee. There are various other restrictions placed on officials in regard to official activity and private matters.

In regard to an insurance agent, I can't find any restriction in Mr. Thomas being involved in a lawsuit against the County. It does not appear he or the other plaintiffs were

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seeking any pecuniary gain in regard to the lawsuit, but raised various legal issues regarding the effect of the recent actions in Ravalli County on the structure of the Commission created. I don't believe the fact that Mr. Thomas, along with the other plaintiffs, are seeking an award of attorney fees would trigger any type of legitimate conflict issues which would affect Mr. Thomas's insurance agency relationship with the County.

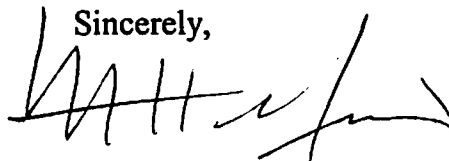
An additional issue that was raised involved whether the MACo Joint Powers Insurance Authority would provide any coverage for the attorney fee issue. When the case was filed, it was sent to the MACo JPIA office; and the JPIA denied coverage. The basis for the denial included the following exclusions under the manuscript policy the Authority has with the County:

- 13. Any claim or cause seeking injunctive or similar relief;
- 14. Any claim seeking relief or redress in any form other than money damages only;
- 17. Any claim relating to the adoption, amendment, or repeal of a legislative act.

Clearly, the exclusions apply to the lawsuit, especially the restriction on coverage regarding claims involving legislative acts. The ballot measure addressing a change in the size of the Commission, etc., is clearly a legislative act which comes under the exclusion.

Although the MACO JPIA provides broad-based coverage for a number of exposures counties face in their day-to-day activities, the type of claim brought against Ravalli County by Mr. Thomas and the other plaintiffs is not the usual type of insurable risk that would be considered covered by an insurance policy. The initial denial of coverage was correct; and there would be no coverage for the defense of the cause, as well as any award of attorney fees.

I hope I have answered the inquiries that were requested of MACo.

Sincerely,

Norman H. Grosfield
Attorney at Law

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pc: L. Harold Blattie